

SENATE SUBSTITUTE TO HB 1380

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to redefine a term; to provide certain exemptions from laws relating to adulteration and misbranding of food; to regulate certain advertising of shelled pecans for sale; to change certain provisions relating to promulgation of rules, regulations, and standards by the Department of Human Resources and county boards of health relative to food service establishments; to provide certain exemptions from laws relating to food service establishments; to regulate the preparation, marketing, sale, and serving of Halal foods; to provide punishment for violations; to define certain terms; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to adulteration and misbranding of food, is amended in Code Section 26-2-21, relating to definitions relative to said article, by striking paragraph (5) of subsection (a), and inserting in lieu thereof the following:

"(5) 'Food sales establishment' means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, except those food processing plants which are currently required to obtain a license from the Commissioner under any other provision of law; bakeries; confectioneries; fruit, nuts, and vegetable stores ~~or roadside stands~~; wholesale sandwich and salad manufacturers, including vending machines and operations connected therewith; and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off the premises; provided, however, that such term shall not include roadside stands where farm or garden produce is sold. Within a food sales establishment, there may be a food service component, not separately operated, which may serve customers on site. This food service component shall be considered as part of the food sales establishment. The food sales

1 component of any food service establishment defined in Code Section 26-2-370 shall not
2 be included in this definition. This term shall not include 'food service establishments' as
3 defined in Code Section 26-2-370. This term also shall not include establishments
4 engaged in the sale of food primarily for consumption off the premises if such sale is an
5 authorized part of and occurs upon the site of a fair or festival which:

6 (A) Is sponsored by a political subdivision of this state or by an organization exempt
7 from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under
8 Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the
9 Internal Revenue Code, as that code is defined in Code Section 48-1-2;

10 (B) Lasts 120 hours or less; and

11 (C) When sponsored by such an organization, is authorized to be conducted pursuant
12 to a permit issued by the municipality or county in which it is conducted."

13 SECTION 2.

14 Said article is further amended by adding a new Code section to read as follows:

15 "26-2-25.1.

16 The provisions of Code Section 26-2-25 shall not apply to any:

17 (1) Person not regularly engaged in the business of manufacturing and selling food and
18 who prepares food only on order of and for sale directly to the ultimate consumer;

19 (2) Educational, charitable, or religious organization not regularly engaged in the
20 business of manufacturing, processing, or selling food;

21 (3) Individual who prepares and sells food that is not potentially hazardous food at a
22 community event or farmers' market, other than a state farmers' market, with gross
23 receipts of \$5,000.00 or less in a calendar year from all goods sold at retail, including but
24 not limited to the prepared food items, subject to the following requirements:

25 (A) The seller shall display prominently at the point of sale a clearly legible sign or
26 placard stating, 'These products are homemade and not subject to state inspection,'
27 unless the food items were prepared in a kitchen that is licensed and inspected; and

28 (B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the
29 name and address of the person preparing and selling the foods; or

30 (4) Person who receives less than \$5,000.00 in gross receipts in a calendar year from all
31 goods sold at retail, including but not limited to the sale of home-processed and
32 home-canned food products, if:

33 (A) The products are:

34 (i) Pickles, vegetables, or fruits;

35 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or

(iii) Home-processed and home-canned in this state;

(B) The products are sold or offered for sale at a community or social event or a farmers' market in this state, other than a state farmers' market;

(C) The seller displays prominently at the point of sale a clearly legible sign or placard stating, 'These products are homemade and not subject to state inspection,' unless the products were processed and canned in a kitchen that is licensed and inspected;

(D) Each container of the product sold or offered for sale under this paragraph is accurately labeled to provide the name and address of the person who processed and canned the goods and the date on which the goods were processed and canned; and

(E) The products are not potentially hazardous foods."

SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

"26-2-32.1.

(a) It shall be unlawful for any person or firm to advertise for sale any shelled pecans that are less than whole on any outdoor advertising as such term is defined in Code Section 32-6-71 unless such outdoor advertising states, in letters at least one-half as tall and bold as the tallest and boldest type on the outdoor advertising, the size category of shelled pecan materials being offered for sale, such as but not limited to pecan halves, pieces, granules, meal, or any combination thereof.

(b) Violation of subsection (a) of this Code section shall constitute dissemination of a false advertisement for purposes of Code Section 26-2-22. Each day that an outdoor advertisement does not conform to the requirements of subsection (a) of this Code section shall constitute a separate offense."

SECTION 4.

Said Chapter 2 of Title 26, relating to standard, labeling, and adulteration of food, is further amended by inserting a new Article 11A to read as follows:

"ARTICLE 11A

26-2-340.

As used in this article, the term:

(1) 'Food' means any meat, meat preparation, articles of food, or food products, either raw or prepared for human consumption, and whether to be consumed on the premises where prepared or sold or whether to be taken elsewhere for consumption.

(2) 'Halal food' means food or drink which is permitted for Muslims under Islamic religious or dietary laws, including those laws and customs of zabiha (slaughtered according to Islamic code).

(3) 'Label' means a display of written, printed, or graphic matter on a food product or container or packaging of a food product.

(4) 'Meat' includes without limitation chicken.

(5) 'Person' means any hotel, inn, grocery, butcher shop, restaurant keeper, or any individual, firm, or corporation operating a boarding house, eating house, lunchroom business, or catering business.

26-2-341.

(a) No person, with intent to defraud, shall sell, prepare, or expose for sale food which such person falsely represents to be Halal food.

(b) No person shall falsely represent any food or the contents of any package or container to be Halal by having or permitting to be inscribed on it, in any language, the word 'Halal.'

(c) Nothing contained in this Code section shall prohibit the use of the words 'Halal type' or 'Halal style food' in advertising.

26-2-342.

No person, with intent to defraud, shall display any signs around his or her place of business or place any advertisements in any newspaper, magazine, periodical, or other publication, which signs or advertisements falsely represent non-Halal food sold, prepared, or offered for sale to be Halal food.

26-2-343.

No person preparing or serving food shall prepare, sell, serve, or prepare for sale, either to be consumed on the premises or elsewhere, Halal and non-Halal food in the same place of business, unless such person:

(1) Keeps separate kitchens where the food is prepared;

(2) Keeps and uses separate and distinctly labeled or marked dishes and utensils in and with which the food is prepared and served;

(3) Indicates on all signs and similar display advertising in, on, or about such person's premises, in block letters at least four inches in height, 'Halal and non-Halal food prepared or served here'; and

(4) Stores, displays, and packs Halal food separately from non-Halal food.

1 26-2-344.

2 The trier of fact may it in its discretion infer that possession of non-Halal food in any place
3 of business advertising that the only food sold or offered for sale therein is Halal food
4 constitutes intent to defraud under Code Section 26-2-341 or 26-2-342.

5 26-2-345.

6 Any person who violates any provision of this article shall be guilty of a misdemeanor and,
7 upon conviction thereof, shall be punished by a fine of not less than \$25.00 nor more than
8 \$500.00, or by imprisonment for not less than 30 days nor more than six months, or both.

9 **SECTION 5.**

10 Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to
11 food service establishments, is amended in Code Section 26-2-373 of the Official Code of
12 Georgia Annotated, relating to promulgation of rules, regulations, and standards by the
13 Department of Human Resources and county boards of health relative to food service
14 establishments, by striking subsection (a) and inserting in lieu thereof the following:

15 "(a) For the purpose of protecting the public health, the Department of Human Resources
16 shall have the power to adopt and promulgate such rules and regulations as it deems
17 necessary and proper to carry out the purpose and intent of this article, including the
18 establishment of reasonable standards of sanitation for food service establishments and
19 such establishments which are also retail frozen dessert packagers and the examination and
20 condemnation of unwholesome food therein. The Department of Human Resources shall
21 promulgate rules and regulations for posting the uniform inspection report and current
22 grade in each food service establishment in a prominent area of the interior of the food
23 service establishment other than windows and doors. County boards of health are
24 authorized to adopt and promulgate supplementary rules and regulations, including the
25 establishment of reasonable standards of sanitation for food service establishments,
26 consistent with those adopted and promulgated by the department. The department and the
27 county boards of health may obtain technical and laboratory assistance from the
28 Department of Agriculture."

29 **SECTION 6.**

30 Said article is further amended by adding a new Code section to read as follows:

31 "26-2-379.

32 This article shall not apply to any:

1 (1) Person not regularly engaged in the business of manufacturing and selling food and
2 who prepares food only on order of and for sale directly to the ultimate consumer;

3 (2) Educational, charitable, or religious organization not regularly engaged in the
4 business of manufacturing, processing, or selling food;

5 (3) Individual who prepares and sells food that is not potentially hazardous food at a
6 community event or farmers' market, other than a state farmers' market, with gross
7 receipts of \$5,000.00 or less in a calendar year from all goods sold at retail, including but
8 not limited to the prepared food items, subject to the following requirements:

9 (A) The seller shall display prominently at the point of sale a clearly legible sign or
10 placard stating, 'These products are homemade and not subject to state inspection,'
11 unless the food items were prepared in a kitchen that is licensed and inspected; and

12 (B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the
13 name and address of the person preparing and selling the foods; or

14 (4) Person who receives less than \$5,000.00 in gross receipts in a calendar year from all
15 goods sold at retail, including but not limited to the sale of home-processed and
16 home-canned food products, if:

17 (A) The products are:

18 (i) Pickles, vegetables, or fruits;

19 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or

20 (iii) Home-processed and home-canned in this state;

21 (B) The products are sold or offered for sale at a community or social event or a
22 farmers' market in this state, other than a state farmers' market;

23 (C) The seller displays prominently at the point of sale a clearly legible sign or placard
24 stating, 'These products are homemade and not subject to state inspection,' unless the
25 products were processed and canned in a kitchen that is licensed and inspected;

26 (D) Each container of the product sold or offered for sale under this paragraph is
27 accurately labeled to provide the name and address of the person who processed and
28 canned the goods and the date on which the goods were processed and canned; and

29 (E) The products are not potentially hazardous foods."

30 **SECTION 7.**

31 This Act shall become effective upon its approval by the Governor or upon its becoming law
32 without such approval.

33 **SECTION 8.**

34 All laws and parts of laws in conflict with this Act are repealed.